

## REMARKS

In the February 23, 2005 Office Action, the Examiner noted that claims 1-20 were pending and were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent 5,537,574 to Elko et al. Claims 1, 5, 6, 10, 11, 15, 16 and 20 have been canceled and claims 21-32 have been added. Thus, claims 2-4, 7-9, 12-14, 17-19, and 21-32 are pending and under consideration. The Examiner's rejections are respectfully traversed below.

### Rejections under 35 U.S.C. § 102(b)

In the February 23, 2005 Office Action, claims 1-20 were rejected under 35 U.S.C. § 102(b) as anticipated by Elko et al. As discussed in the Amendment filed September 8, 2004, nothing has been cited or found in Elko et al. that teaches or suggests "recording the file ... after recording the management information" (claim 1, lines 6-8) or the similar limitations recited in claims 6, 11 and 16. Newly added claims 21-32 further define the invention by reciting limitations similar to those in the previously pending claims. However, the rejections of claims 1, 5-6, 10-11, 15-16 and 20 are moot because those claims are herein canceled.

The wording of the rejection of the claims in the February 23, 2005 Office Action was substantially unchanged from the June 8, 2004 Office Action, while the "Response to Amendment" on page 4 of the February 23, 2005 Office Action contained sentence fragments and is unintelligible. As a result, it is submitted that nothing in the February 23, 2005 Office Action rebutted the arguments in the September 8, 2004 Amendment and therefore, claims 2-4, 7-9, 12-14, 17-19 are allowable over the applied art for the reasons set forth in the September 8, 2004 Amendment. Furthermore, since newly added claims 21-32 are similar in scope to the canceled claims, it is submitted that claims 21-32 are allowable for the reasons set forth in the September 8, 2004 Amendment.

### 35 U.S.C. § 101 Issues

In a telephonic Examiner Interview on May 23, 2005, the Primary Examiner indicated concern regarding whether claims 1 and 16 met the requirements of 35 U.S.C. § 101 as within the technological arts. The new independent claims have been drafted to more clearly meet these requirements. For example, claim 29 is directed to a "file device" formed of means-plus-function elements that according to the first paragraph of 35 U.S.C. § 112 must be interpreted in light of the disclosed embodiment(s). It is submitted that a "file device" is within the technological arts, particularly as disclosed in the specification.

Furthermore, claim 29 recites "a file accessed by said file device" (claim 29, line 2) and claim 31 recites a similar limitation, while claims 30 and 32 recite "a file accessed by a computer" (e.g., claim 30, line 3). It is submitted that these limitation recited in the body of the new independent claims remove any possibility that the claims are not within the technological arts.

For the reasons set forth above, it is submitted that all of the pending claims are within the technological arts. If the Examiner disagrees, further amendment of claims can be discussed at an Examiner Interview which is requested below.

### **Entry of Amendment**

During a telephone conversation on May 23, 2005, Primary Examiner Alford Kindred indicated that an Amendment addressing the 35 U.S.C. § 101 issues would be entered. It is respectfully requested that this Amendment be entered and reconsideration given to the allowability of the pending claims. Amendments to the claims touching the merits of the application are necessary and presented at this time to clarify salient features of the invention which were interpreted in the February 23, 2005 Office Action differently than intended by the Applicants, and because the Office Action was incomplete, as well as, to correct perceived 35 U.S.C. § 101 issues presented by the Primary Examiner in a telephone interview conducted on May 23, 2005.

### **Request for Examiner Interview and Withdrawal of Finality**

This amendment after final is submitted based on the recommendation of the Primary Patent Examiner during an informal telephone interview conducted on May 23, 2005, wherein it was agreed that an amendment after final would be entered and considered because the February 23, 2005 final Office Action response/arguments were incomplete and the claims were interpreted in the February 23, 2005 Office Action differently than intended by the Applicants. In light of this acknowledgment, it is respectfully requested that the finality of the February 23, 2005 Office Action be withdrawn if the claims are not placed in condition for allowance by this Amendment or the subsequent Examiner Interview.

### **Summary**

For at least the reasons discussed above, and there being no further outstanding objections or rejections, it is submitted that claims 2-4, 7-9, 12-14, 17-19 and 21-32 are in condition suitable for allowance. Entry of this Amendment, reconsideration of the claims and an early Notice of Allowance are courteously solicited.

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Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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Date: 7/26/05

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on JULY 25, 2005  
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By: JOHN L. YOUNG  
Date: JULY 25, 2005